

REV. THOMAS K. SEWALL

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JULY 19, 1951.—Committed to the Committee of the Whole House and ordered  
to be printed

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Mr. RODINO, from the Committee on the Judiciary, submitted the  
following

REPORT

[To accompany S. 1443]

The Committee on the Judiciary, to whom was referred the bill (S. 1443) for the relief of Rev. Thomas K. Sewall, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The facts will be found fully set forth in Senate Report No. 391, Eighty-second Congress, first session, which is appended hereto and made a part of this report. Your committee concur in the recommendation of the Senate.

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[S. Rept. No. 391, 82d Cong., 1st sess.]

The purpose of the proposed legislation is to relieve the claimant of liability for repayment to the United States of \$379.76, because of the operation of the dual compensation statutes, and also to provide for the payment to him of an additional amount of \$89.40 for compensation of 20 hours of annual leave plus salary from April 17 to April 21, 1950.

STATEMENT

Claimant was appointed as a crew leader for the taking of the seventeenth decennial census. He is a retired commissioned officer of the Armed Forces. His appointment apparently was the result of a misunderstanding on the part of field personnel of the Department of Commerce concerning the dual compensation laws. Such laws permit the appointment of persons receiving disability compensation but prohibit the appointment of persons receiving disability retirement pay. Claimant was receiving disability retirement pay and was, therefore, subject to the prohibition. He was appointed to a job with an annual rate of pay which, when combined with his disability retirement pay, exceeded the \$3,000 maximum permitted by law, and, as a result, he is now obligated to return all of the pay received for the performance of his duties as a crew leader and is ineligible to receive the remainder of the pay, and annual leave, which would otherwise be due him.

The Department of Commerce states that the work performed by claimant was carried out in a satisfactory manner and that, even after notification that his employment had been terminated, he voluntarily continued his work and completed his assignment without pay, thereby saving the Bureau considerable trouble and expense. The Department of Commerce states that for these reasons it is of the opinion that the bill should be enacted, and this opinion is concurred in by the Department of Justice.

Attached hereto and made a part of this report are letters received from the Department of Justice and the Department of Commerce in connection with this bill.

DEPARTMENT OF JUSTICE,  
Washington, D. C., May 25, 1951.

Hon. PAT MCCARRAN,

*Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 1443) for the relief of Reverend Thomas K. Sewall.

The bill would relieve Rev. Thomas K. Sewall, of Detroit Lakes, Minn., from liability for repayment to the United States of the sum of \$379.76, representing the salary paid him as an employee of the Census Bureau for 31 days during the taking of the 1950 population census while he was receiving retired pay as a commissioned officer in the Armed Forces. Section 2 of the bill would provide for payment to him of the sum of \$89.40 in full satisfaction of his claim against the United States for (1) 20 hours of annual leave accrued while working as an employee of the Census Bureau during the taking of the 1950 population census, amounting to \$29.80 and (2) salary which he would have received as an employee of the Census Bureau from April 17 to April 21, 1950, had he not been receiving retired pay as a commissioned officer in the Armed Forces, amounting to \$59.60.

In compliance with your request, a report was obtained from the Department of Commerce concerning this legislation. That report, which was prepared in connection with a similar bill (S. 3920) introduced in the Eighty-first Congress, is to be considered as that agency's report on the instant bill. According to that report, which is enclosed, it appears that claimant was appointed as a crew leader for the taking of the seventeenth decennial census and that his appointment apparently was the result of a misunderstanding, on the part of field personnel, of the dual compensation laws. Such laws permit the appointment of persons receiving disability compensation but prohibit employment of persons receiving disability retirement pay. Claimant was receiving disability retirement pay and was therefore subject to the prohibition. He was appointed to a job with an annual rate of pay which, when combined with his disability retirement pay, exceeded the \$3,000 maximum permitted by law and as a result, he is now obligated to return all of the pay received for the performance of his duties as a crew leader and is ineligible to receive the remainder of the pay and annual leave which would otherwise be due him.

Claimant received \$379.76 as payment for his services but he did not receive the sum of \$59.60 which would still be due him, or the additional \$29.80 which is a lump-sum payment for leave. The total amount paid him or due him plus the annuity which he has received from the Veterans' Administration is approximately \$250 less than the \$3,000 limit specified in the dual-compensation statute. It appears that although his annual dual compensation would have exceeded the statutory limitation had he been employed only a few weeks longer, he did not receive any amount in excess of the statutory limitation.

The Department of Commerce states that the work performed by claimant was carried out in a satisfactory manner and that even after notification that his employment had been terminated, he voluntarily continued his work and completed his assignment without pay, thereby saving the Bureau considerable trouble and expense. The Department of Commerce states that for these reasons it is of the opinion that the bill should be enacted.

The Department of Justice concurs in the views of the Department of Commerce.

The Director of the Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Yours sincerely,

PEYTON FORD,  
Deputy Attorney General.

DEPARTMENT OF COMMERCE,  
Washington 25, D. C., September 6, 1950.

HON. PEYTON FORD,  
*Deputy Attorney General, Department of Justice,*  
Washington, D. C.

DEAR SIR: This letter is in reply to your request of July 26, 1950, for the comments of this Department concerning S. 3920, a bill for the relief of Rev. Thomas K. Sewall.

Reverend Sewall was appointed to the staff of this Department's Census Bureau as a crew leader at Detroit Lakes, Minn., for the taking of the seventeenth decennial census. His appointment apparently was the result of a misunderstanding of the dual compensation laws on the part of the field personnel. Those laws would permit the appointment of persons who receive income from the Government in the form of disability compensation, but the same is not true for persons who are receiving disability retirement pay. Reverend Sewall was receiving disability retirement pay, and was, therefore, not exempt from the prohibition contained in those laws. He was appointed to a job with an annual rate of pay which, when combined with his disability retirement pay, exceeded the \$3,000 maximum permitted by law. As a consequence, Reverend Sewall is now obligated to return all the pay received for the performance of his duties as a crew leader, and is ineligible to receive the remainder of his pay and annual leave which would otherwise be due him.

Reverend Sewall received \$379.76 as payment for his services. He did not receive the sum of \$59.60 which would still be due him, or an additional \$29.80 which sum is a lump-sum payment for leave. The total amount paid him or due him plus the annuity which he has received from the Veterans' Administration is approximately \$250 less than the \$3,000 limit specified in the dual compensation statute. Although his annual dual compensation would have exceeded the statutory limitation had he been employed by the Bureau only a few weeks longer, the Reverend Sewall did not receive any amount in excess of the statutory limitation.

The work performed by Reverend Sewall was carried out in a satisfactory manner. Even after notification that his employment had been terminated, he voluntarily continued his work and completed his assignment without pay, thereby saving the Bureau considerable trouble and expense.

For all these reasons, we are of the opinion that S. 3920 should be enacted. If we can be of further assistance please call upon us.

Sincerely yours,

THOMAS W. S. DAVIS,  
*Acting Secretary of Commerce.*

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